

ORDINANCE NO. 20-__

AN ORDINANCE PERTAINING TO OFFENSES AND CRIMES, CREATING SECTION 16-5-1-546, DIVISION 16-5-1, ARTICLE 16-5, CHAPTER 16, LAWTON CITY CODE, 2015, REQUIRING THE POSTING OF SIGNAGE AND THE WEARING OF FACE MASKS IN CERTAIN INSTANCES TO HELP LIMIT THE SPREADING OF DISEASE, SETTING FORTH A SUNSET PROVISION TO TERMINATE THE ORDINANCE, PROVIDING FOR SEVERABILITY AND DECLARING AN EMERGENCY.

ORDINANCE

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LAWTON, OKLAHOMA:

WHEREAS, the City of Lawton is charged with the solemn responsibility of protecting the public peace, health, and safety, and promoting the general welfare of the City of Lawton and its inhabitants; and

WHEREAS on March 13, 2020, the President of the United States declared COVID-19 a national emergency and ordered each state to set up emergency operations centers and ordered hospitals to activate their emergency preparedness plans; and

WHEREAS, on March 15, 2020, the Governor of the State of declared an emergency caused by the impending threat of COVID-19 to the people of this State and the public's peace, health and safety which remains in effect today; and

WHEREAS, the above described pandemic conditions constitute a substantial threat to the safety and welfare of the City of Lawton and its citizens, and created a civil emergency within the meaning of Section 8-1-102 of the Lawton City Code in addition to constituting an emergency under the Emergency Management Act of 2003 (Title 63, Okla. Stat. Section 683.3), and as a result of such determination, on March 16th, 2020, a Proclamation of the Mayor of the City of Lawton, Oklahoma Declaring a Civil Emergency was issued by Mayor Stan Booker to allow the City of Lawton to take measures to reduce the possibility of exposure to COVID-19 and promote the health and safety of Lawton residents; and

WHEREAS, the Mayor of the City of Lawton, issued multiple executive orders in response to COVID-19 to protect public health, safety and welfare in the City of Lawton and ensure an effective response to this disaster; and

WHEREAS, as the City of Lawton reopened businesses in the midst of COVID-19, increased spread is to be expected, and the key to controlling the spread and keeping the City of Lawton safe is for all people to consistently follow good hygiene, broad use of face coverings and adequate social-distancing practices; and

WHEREAS, the United States Centers for Disease Control and Prevention (CDC) recommends that people wear cloth face coverings in public settings, particularly when other social distancing measures are difficult to maintain, and when around people who do not live in the same household and;

WHEREAS, the wearing of facial coverings is the least restrictive option to better allow business to remain open; and

WHEREAS, the Mayor of the City of Lawton, joined with the Executive Director of the Lawton Health Department, and other public health officials in consistently encouraging people to use face coverings, and health authorities have repeatedly emphasized that wearing face coverings is one of the most important and effective tools for reducing the spread of COVID-19; and

WHEREAS, given the current status of COVID-19 in the City of Lawton, requiring the use of face coverings is a targeted response that can combat the threat to public health using the least restrictive means, and if people follow this requirement, more extreme measures may be avoided; and

WHEREAS, wearing a face covering is important not only to protect oneself, but also to avoid unknowingly harming fellow Lawtonians and others with whom they may come into contact, especially given that many people who go into public may unknowingly have COVID-19 as they often have not yet become symptomatic; and

WHEREAS, due to recent substantial increases in COVID-19 positive cases, and increases in the COVID-19 positivity rate and hospitalizations resulting from COVID-19, further measures are needed to achieve the least restrictive means for reducing the growing spread of COVID-19, and to avoid a need for more extreme measures; and

WHEREAS, for the protection of the public health and safety of the City of Lawton and its citizens and to prevent the introduction and spread of the contagious disease COVID-19, it is deemed necessary to require the wearing of face coverings in certain circumstances and the requirement to post associated signage;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LAWTON, OKLAHOMA, pursuant to the authority granted the City, to include Title 11 Oklahoma Statutes, Section 22-120(A), that Section 16-5-1-546 mandating the use of facemasks in certain instances is hereby created in Division 16-5-1, Article 16-5, Chapter 16, Lawton City Code, 2015.

Section 1. Section 16-5-1-546 is hereby created to read as follows:

16-5-1-546 – Wearing of face masks in certain instances and posting of associated signage is required to help limit the spreading of disease.

A. Face Coverings Mandate Under Certain Circumstances

Every person in the City of Lawton shall wear a face covering over the nose and mouth and shall be worn consistent with CDC guidelines when inside a commercial entity or other building, structure or space open to the public, public transit, or when in an outdoor public space where it is not feasible to maintain six feet of social distancing from another person not in the same household; provided, however, that this face-covering requirement does not apply to the following:

- a. any person younger than 6 years of age.
- b. any person with a medical condition or disability for which a qualified physician has documented prevents said person from wearing a face covering;
- c. any person who is consuming food or drink, or is seated at a restaurant to eat or drink;
- d. any person while the person is exercising outdoors or engaging in physical activity outdoors, and maintaining a safe distance from other people not in the same household;
- e. any person while the person is driving alone or with passengers who are part of the same household as the driver;
- f. any person obtaining a service that requires temporary removal of the face covering for security surveillance, screening, or a need for specific access to the face, such as while visiting a bank or while obtaining a personal care or dental service involving the face, but only to the extent necessary for the temporary removal;
- g. any person while the person is in a swimming pool, lake, or similar body of water or in the water portions of a spray park or splash pad;
- h. any person who is in a personal office, or similarly private space while other persons are not present;
- i. private homes or associated yards;
- j. any person while giving a speech or independent performance, whether for an audience or a broadcast; and large performing groups shall be required to adhere to all covering CDC guidelines;
- k. any person performing work in which face coverings present or exacerbates a hazard;

- l. educational institutions that have adopted a plan to prevent the spread of COVID-19 that includes physical distancing mandates and/or face covering mandates as appropriate for the specific institutional environment;
- m. persons who care for, or interact with, a person who is hearing impaired and relies on lip reading to communicate;
- n. private lodging rooms in places of public accommodation;
- o. offices and workplaces that are not open to the public and where social distancing between employees and other occupants can be and is consistently maintained during hours of operation;

B. Signage.

All businesses, commercial entities, and/or other building or structure open to the public who accept visitors/customers shall post conspicuous signs at all entrances indicating employees, customers, users, and visitors must wear face coverings pursuant to this ordinance to be admitted into the premises. The City Manager shall direct the development of a uniform sign meeting this requirement and distribute, or make available, the required signage to the building managers/owners.

C. Penalty for Violations of Subsection A or B.

A person in first-time violation of the face covering requirement in this ordinance shall receive a verbal or written warning, and if subsequently violating this ordinance, shall be guilty of a misdemeanor offense, receive a citation for such violation, and, upon conviction thereof shall be punished by a fine of not more than One Hundred Dollars (\$100.00), excluding costs. In addition, the City may pursue any other legal remedy to secure enforcement.

D. Definitions.

"*Face Covering*" or "*Mask*" both mean a covering that fully covers a person's nose and mouth. The term(s) face covering/mask includes, but is not limited to, cloth face masks, towels, scarves, and bandanas as recommended by the CDC or OSDH, an N95, KN95, or other mask that would be appropriate for a health care setting, or a surgical mask. The Face Covering should fit snugly on a person's face but allow the person to breathe easily and be worn consistent with the guidance provided by the CDC or OSDH.

"*Social*" or "*Physical Distancing*" means maintaining a minimum of six (6) feet of distance between persons at all times who are not part of the same household while in a public space.

Section 2. Expiration of Ordinance. Unless otherwise repealed, amended, or superseded by ordinance, this face covering mandate ordinance shall remain in effect until the termination of the Governor of the State of Oklahoma's Emergency Declaration.

Section 3. Severability Clause. If any section, sentence, clause, or phrase of this ordinance or any part thereof is for any reason found to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of this ordinance or any part thereof.

Section 4. Emergency Clause. That an emergency is now declared to exist for the preservation of the public peace, health and safety, by reason whereof this Ordinance shall take effect immediately from and after its adoption and required approvals.

ADOPTED AND APPROVED, by the City Council of Lawton this 17th day of July, 2020.

(SEAL)

STANLEY BOOKER, MAYOR

ATTEST:

TRACI L. HUSHBECK, CITY CLERK

APPROVED as to form and legality this ____ day of July 2020.

TIMOTHY E. WILSON, INTERIM CITY ATTORNEY